



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-011)

Crystalline Silicon Photovoltaic Products from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Countervailing Duty Administrative Review and Notice of Amended Final Results of Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On August 4, 2020, the United States Court of International Trade (the Court) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the Department of Commerce (Commerce) pertaining to the 2014-2015 countervailing duty (CVD) administrative review of the order on crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's final results in the 2014-2015 administrative review of solar products from China, and that Commerce is amending the final results.

DATES: Applicable August 14, 2020.

FOR FURTHER INFORMATION CONTACT: Caitlin Monks, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2670.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 2017, Commerce published its final results of the 2014-2015 administrative review of solar products.¹ Commerce reached affirmative determinations for mandatory respondent Changzhou Trina Solar Energy Co., Ltd. and its cross-owned affiliates (collectively, Trina Solar), as well as numerous other producers and exporters not selected for individual review. On November 30, 2018, the Court remanded aspects of the *Final Results* to Commerce for further consideration.² The Court remanded Commerce's determinations as regards to the Export Buyer's Credit Program and inclusion of Comtrade data in calculating the world market price for aluminum extrusions and solar glass.³ In its first remand redetermination, issued in April 2019,⁴ Commerce provided additional explanation and evidence for its determinations, but the Court continued to find them unsupported by substantial evidence and remanded them a second time.⁵

In its second remand redetermination, issued in February 2020,⁶ Commerce explained that, although it continues to believe that it is not possible to verify whether respondents used the Export Buyer's Credit Program without the cooperation of the Government of China (GOC), it found the program not used, under protest, to comply with the Court's order.⁷ Commerce also

¹ See *Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014-2015*, 82 FR 42792 (September 12, 2017) (*Final Results*), and accompanying Issues and Decision Memorandum.

² See *Changzhou Trina Solar Energy Co., Ltd. et al. v. United States*, Slip Op. 18-167 (November 30, 2018).

³ *Id.* at 16.

⁴ See *Changzhou Trina Solar Energy Co., Ltd. et al. v. United States*, Court of International Trade Consolidated Court No. 17-00246, "Final Results of Redetermination Pursuant to Court Remand," dated April 24, 2019.

⁵ See *Changzhou Trina Solar Energy Co. v. United States*, Slip Op. 19-143 (November 18, 2019).

⁶ See *Changzhou Trina Solar Energy Co., Ltd. and SolarWorld Americas, Inc. v. United States*, Consol. Court No. 17-00246; Slip Op. 19-143 (November 18, 2019), "Final Results of Redetermination Pursuant to Court Remand," dated February 28, 2020 (Second Remand Redetermination).

⁷ *Id.* at 7-8.

solicited additional information for the solar glass benchmark, and selected data from PV Insights consistent with Commerce's preference for product-specific monthly data.⁸ For aluminum extrusions, Commerce used the more product-specific annual data from IHS exclusively rather than averaging them with less specific monthly Comtrade data, consistent with the Court's order.⁹

The Court sustained Commerce's second remand in full.¹⁰ Specifically, the Court found that Commerce's determinations regarding the Export Buyer's Credit Program, as well as the aluminum extrusions and solar glass benchmarks, complied with the options the Court provided in its remand opinion.¹¹

Timken Notice

In its decision in *Timken*,¹² as clarified by *Diamond Sawblades*,¹³ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The Court's August 4, 2020, judgment constitutes a final decision of that court that is not in harmony with Commerce's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, Commerce will continue suspension of liquidation of subject merchandise pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

⁸ *Id.* at 9-10.

⁹ *Id.* at 8-9.

¹⁰ See *Changzhou Trina Solar Energy Co., Ltd. and SolarWorld Americas, Inc. v. United States*, Slip Op. 20-109 (August 4, 2020).

¹¹ *Id.* at 3-6 (Export Buyer's Credit Program) and 7-13 (benchmarks for aluminum extrusions and solar glass).

¹² See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹³ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010).

Amended Final Results

Because there is now a final court decision, Commerce is amending the 2017 *Final Results* with respect to Trina Solar and all other producers and exporters subject to this review.

The revised total subsidy rates for these companies for the period June 10, 2014 through December 31, 2015 are as follows:¹⁴

Exporter or Producer	Subsidy Rate (percent <i>ad valorem</i>)
Changzhou Trina Solar Energy Co., Ltd. and its Cross-Owned Affiliates ¹⁵	3.72
Chint Solar (Zhejiang) Co., Ltd	3.72
Hefei JA Solar Technology Co., Ltd	3.72
Perlight Solar Co., Ltd	3.72
Risen Energy Co., Ltd	3.72
Shanghai JA Solar Technology Co., Ltd	3.72
Shenzhen Sungold Solar Co., Ltd	3.72
Sunny Apex Development Limited	3.72

Amended Cash Deposit Rates

Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection for all firms above that do not have a superseding cash deposit rate (*e.g.*, from a subsequent administrative review). For such firms, the revised cash deposit rates will be the rates indicated above, effective August 14, 2020.

¹⁴ See Second Remand Redetermination at 20-21.

¹⁵ See *Final Results*, 82 FR at 42793. Cross-owned affiliates are: Trina Solar Limited; Trina Solar (Changzhou) Science & Technology Co., Ltd.; Yancheng Trina Solar Energy Technology Co., Ltd.; Changzhou Trina Solar Yabang Energy Co., Ltd.; Hubei Trina Solar Energy Co., Ltd.; Turpan Trina Solar Energy Co., Ltd.; and Changzhou Trina PV Ribbon Materials Co., Ltd.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Dated: August 11, 2020

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

[FR Doc. 2020-17942 Filed: 8/14/2020 8:45 am; Publication Date: 8/17/2020]